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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/817,531

Filing Date: April 02, 2004

Appellant(s): SCHAEPKENS ET AL.

Robert A. Manware
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 25, 2008 appealing from the Office action
mailed March 5, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

- i) Claims 4 and 49 have been amended subsequent to the final rejection.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

7,018,713	Padiyath et al.	3-2006
6,537,688	Silvernail et al.	3-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 5, 8 – 10 and 47 – 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Padiyath et al. (U. S. Pat. No. 7,018,713).

Regarding claim 1, Padiyath et al. discloses in e.g., Fig. 1 and Fig. 4 a package comprising:

- a flexible substrate (the flexible substrate 112 in the element 110 and/or 210; column 3, lines 20 – 21 and column 9, lines 2 and 3) comprising a polymeric transparent film

(column 3, lines 35 – 67);

- an organic electronic device (220; column 9, lines 5 – 6. Furthermore, since the element 220 is a light emitting structure of OLED device 200, the element 220 reads as the organic electronic device; column 1, line 8 and column 8, line 67) coupled to the transparent film (see e.g., Fig. 4);
- a sealant (240; column 9, lines 12 – 13) coupled to the flexible substrate (210) and disposed about the perimeter of the organic electronic device (220; see e.g., Fig. 4); and
- a superstrate (250; column 9, lines 11 – 13) coupled directly to the sealant (240) and disposed proximate to the organic electronic device (220; see e.g., Fig. 4),
- wherein the superstrate (250) comprises a periphery adapted to wrap around the edges of the package (see e.g., Fig. 4).

Regarding claim 2, Padiyath et al. discloses in e.g., Fig. 1 and Fig. 4 the flexible substrate (112 in the element 210 and/or 110) comprising a barrier coating (116; column 3, lines 25 – 26).

Regarding claims 3 and 48, Padiyath et al. discloses in e.g., Fig. 1 and Fig. 4 the flexible substrate (112 in the element 210 and/or 110) being a composite substrate comprising:

- a first protective layer (the abrasion resistant layer on the surface of the element 210 or 110; column 8, lines 20 – 27) configured to resist abrasion;
- a polymeric transparent film (112; column 3, lines 20 and 21) coupled to the first protective layer (the abrasion resistant layer; column 8, lines 20 – 27);
- a barrier coating (116; column 3, lines 25 and 26) coupled to the transparent film (112; thru the element 114); and

- a second protective layer (126; column 3, line 28) coupled to the barrier coating (thru the elements 118, 120, 122 and 124) and configured to protect the transparent film from chemical attack during fabrication.

Furthermore, the limitations “resist abrasion” and “configured to protect the transparent film from chemical attack during fabrication” are inherent functional languages that do not differentiate the claimed structure over Padiyath et al.

Regarding claims 4 and 49, Padiyath et al. discloses in e.g., Fig. 1 and Fig. 4 the flexible substrate (112 in the element 210 and/or 110) being a composite substrate comprising:

- a first protective layer (he abrasion resistant layer on the surface of the element 210 or 110) configured to resist abrasion;
- a first polymeric transparent film (112) coupled to the first protective layer;
- a first barrier coating (116) coupled to the first transparent film;
- a second barrier coating (120) coupled to the first barrier coating via an adhesive layer (118);
- a second polymeric transparent film (124) coupled to the second barrier coating (thru the element 122); and
- a second protective layer (126) coupled to the barrier coating and configured to protect the transparent film from chemical attack during fabrication.

Furthermore, the limitations “resist abrasion” and “configured to protect the transparent film from chemical attach during fabrication” are inherent functional languages that do not differentiate the claimed structure over Padiyath et al.

Regarding claim 5, Padiyath et al. discloses in e.g., Fig. 1 and Fig. 4 a barrier coating (116) coupled between the flexible substrate (112) and the organic electronic device (220).

Regarding claim 8, Padiyath et al. discloses in e.g., Fig. 1 and Fig. 4 the sealant (240) comprising an adhesive material (column 9, line 12) having a “low” permeability (Since all of the adhesive layer has some degree of permeability, Padiyath et al. fully meets this limitation.).

Regarding claim 9, Padiyath et al. discloses in e.g., Fig. 1 and Fig. 4 the sealant (240) with a portion of the adhesive layer that is located right beside of the element 220 and between the top surface of the elements 210 and the bottom surface of the element 250) comprising a thickness that is greater than a thickness of the organic electronic device (220; see e.g., Fig. 4).

Regarding claims 10 and 50, Padiyath et al. discloses in e.g., Fig. 1 and Fig. 4 the superstrate (250) comprising a metal foil (column 9, line 18).

Regarding claim 47, Padiyath et al. discloses in e.g., Fig. 1 and Fig. 4 a package comprising:

- a flexible substrate (the flexible substrate 112 in the element 110 and/or 210) comprising a polymeric transparent film (column 3, lines 35 – 67);
- an organic electronic device (220) coupled to the transparent film (see e.g., Fig. 4);
- a sealant (240) coupled to the flexible substrate and disposed about the perimeter of the organic electronic device (see e.g., Fig. 4); and
- a superstrate (250) coupled directly to the sealant (240) and disposed proximate to the organic electronic device (220; see e.g., Fig. 4), wherein the superstrate (250) comprises at least one layer larger than the flexible substrate (the flexible substrate

112 in the element 110 and/or 210) and a periphery adapted to wrap around the edges of the package (see e.g., Fig. 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padiyath et al. in view of Silvernail et al. (U. S. Pat. No. 6,537,688).

Regarding claims 6 and 7, While Padiyath et al. discloses the use of the organic electronic device, Padiyath et al. does not disclose an organic light emitting diode (claim 6) and an organic photovoltaic device (claim 7). Silvernail et al. teaches in e.g., Fig. 4, column 1, lines 59 – 63 and column 4, lines 15 – 19 an organic electronic device includes circuits, such as an OLED, an organic light emitting diode and an organic photovoltaic devices. It would have been obvious to one of ordinary skill in the art at the time when the invention was made to have an organic light emitting diode and an organic photovoltaic devices as a well known substitute.

(10) Response to Argument

Response to arguments concerning the 35 U. S. C. § 102(e) rejection of claims 1 – 5, 8 – 10 and 47 – 50 over Padiyath et al. (U. S. Pat. No. 7,018,713).

Schaepkens et al. is the Appellant of the '531 application, which is directed to an organic electronic device and a superstrate in a package. In the semiconductor package, the superstrate is formed by a relationship between a variety of elements, such as a sealant and an organic electronic device

The '531 application claims recite certain superstrate between a sealant and an organic electronic device in a package. Claim 1 for example recites:

1. a package comprising:
 - a flexible substrate comprising a polymeric transparent film;
 - **an organic electronic device** coupled to the transparent film;
 - a sealant coupled to the flexible substrate and disposed about the perimeter of the organic electronic device; and
 - a **superstrate** coupled directly to the sealant and disposed proximate to the organic electronic device, wherein the superstrate comprises a periphery adapted to wrap around the edges of the package.(emphasis added).

On page 7, Appellant argues “[T]hose skilled in the art would fully appreciate that to form an ‘organic electronic device,’ the light emitting layers must be sandwiched between two electrodes.” This argument is not persuasive because claims 1 and 47 do not specifically claim that the **organic electronic device** is formed by light emitting layers sandwiched between two electrodes. In the patentability context, claims are to be given their broadest reasonable interpretations. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed.Cir. 1989). (MPEP 2106 II. C) Moreover, limitations are not to be read into the claims from the specification. *Id* . Thus, Appellant cannot read the limitation “light emitting layers sandwiched between two electrodes” into the rejected claims 1 and 47 to justify his/her argument as to the meaning of the “organic electronic device.” Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). (MPEP 2145-VI) Thus, a reasonable interpretation of the term “organic electronic device” includes the organic light emitting structure 220 taught by Padiyath et al. Furthermore, the terms “OLED device” and “**organic electronic device**” are not semantics.

An “OLED device” and an “**organic electronic device**” are structurally and functionally different devices.

Furthermore, Appellant argues “[A]ccordingly, any correlation of the structure of Padiyath with Appellants’ recited ‘organic electronic device’ must include not only the light emitting layers 220 of Padiyath, but also the cathode 230 and the ITO anode 210.” This argument is not persuasive. As explained in the previous paragraph, the term “organic electronic device” in the rejected claims 1 and 47 does not include the two electrodes, i.e., a cathode and an anode. Thus, the cathode 230 and the ITO anode 210 of Padiyath et al. are not included in the “organic electronic device” 220 of Padiyath et al.

Even further, Appellant argues “the Padiyath reference discloses a superstrate *coupled directly to both* the sealant and the organic electronic device, Appellants respectfully assert that the Padiyath reference cannot possibly disclose the recited elements. That is, the Padiyath reference *does not* disclose ‘a superstrate *coupled directly to* the sealant and *disposed proximate to* the organic electronic device,’ as recited in claims 1 and 47.” This argument is not persuasive. As explained in the previous paragraphs, the “organic electronic device” 220 of Padiyath et al. does not include any electrodes, i.e., the cathode 230 and the ITO anode 210.

Thus, the superstrate (250; column 9, lines 11 – 13) of Padiyath et al. is coupled directly to the sealant (240; column 9, lines 12 – 13) and disposed proximate to the organic electronic device (the organic light emitting structure 220; column 9, lines 1 – 10 and see e.g., Fig. 4).

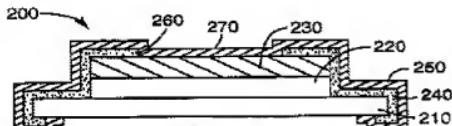


FIG. 4

For all of the reasons provided above, a *prima facie* case of claims 1 and 47 has been established pursuant to the requirements of the 35 U. S. C. § 102(e). Therefore, the rejection of claims 1 and 47 is proper, and the Appellant's arguments for their reversal are not persuasive.

Response to arguments concerning the 35 U. S. C. § 103(a) rejection of claims 6 and 7.

On page 9, Appellant argues “Claims 6 and 7 depend upon amended claim 1, ..., contains elements that are not disclosed by the Padiyath reference. Specifically, the Padiyath reference does not disclose ‘a superstrate coupled directly to the sealant and *disposed proximate to* the organic electronic device.’ The addition of Silvernail does not obviate this deficiency in the Padiyath reference. As a result, the cited references, viewed alone or in combination, do not disclose all elements recited in the present claims and therefore fail to establish a *prima facie* case of obviousness.” This argument is not persuasive. The 103 rejection of the claims 6 and 7 are not distinguish over the prior art references, as explained in the above paragraphs. Since the

base claim is not allowable, the rejection of claims 6 and 7 is proper, and the Appellant's arguments for their reversal are not persuasive.

For all of the reasons provided above, a *prima facie* case of claims 6 and 7 has been established pursuant to the requirements of the 35 U. S. C. § 103(a). Therefore, the rejection of claims 6 and 7 is proper, and the Appellant's arguments for their reversal are not persuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted.

Chris Chu
/Chris C. Chu/
Primary Examiner, Art Unit 2815

Conferees:

Ken Parker
/K. A. P./
Supervisory Patent Examiner, Art Unit 2815

Tom Thomas
/T. T./
Supervisory Patent Examiner, Art Unit 2800